

SENATE BILL

No. 57

Introduced by Senator Corbett

September 11, 2009

An act to amend Sections 14560, 14571.2, 14571.8, 14572, 14574, 14575, 14581, 14585, and 43021 of, to add Sections 14515.3, 14526.8, 14571.6.5, 14571.6.6, and 14571.6.7 to, and to amend, repeal, and add Section 14504 of, the Public Resources Code, relating to recycling, and making an appropriation therefor.

LEGISLATIVE COUNSEL’S DIGEST

SB 57, as introduced, Corbett. Recycling: California redemption value containers.

(1) Existing law, the California Beverage Container Recycling and Litter Reduction Act (act), requires that every beverage container sold or offered for sale in this state is required to have a minimum refund value. A distributor is required to pay a redemption payment for every beverage container sold or offered for sale in the state to the Department of Conservation and the department is required to deposit those amounts in the California Beverage Container Recycling Fund. The money in the fund is continuously appropriated to the department to pay refund values, administrative fees to processors, and a reserve for contingencies. A violation of the act is a crime.

“Beverage” is defined, for purposes of the act, to include, among other things, beer and other malt beverages, wine and distilled spirit coolers, carbonated mineral and soda waters, noncarbonated fruit drinks, and vegetable juices, in liquid form that are intended for human consumption, but excludes from that definition vegetable drinks in beverage containers of more than 16 ounces. The act also excludes,

from the definition of beverage, any product sold in a container that is not an aluminum beverage container, a glass container, a plastic beverage container, or a bimetal container.

This bill would, as of July 1, 2010, revise the term beverage to include vegetable, fruit, nut, grain, or soy drinks or juices or noncarbonated drinks that contain any percentage of those drinks or juices, and would delete the requirement that a vegetable, drink, subject to the act, be sold in a container of 16 ounces or less. The bill would delete the exclusion from the term beverage, for a product that is not sold in the above-specified types of containers. The bill would additionally exclude from the definition a beverage in a flexible foil, plastic pouch, or aseptic container delivering 7 or less fluid ounces.

Since the additional payments for the plastic beverage containers and other beverage containers that this bill would make subject to the act would be deposited in a continuously appropriated fund, the bill would make an appropriation. The bill would also impose a state-mandated local program by creating new crimes relating to beverage containers.

(2) Existing law requires a distributor of specified beverage containers to pay a redemption payment to the Department of Conservation for each beverage container sold or transferred for deposit in the California Beverage Container Recycling Fund. The money in the fund is continuously appropriated to the department to pay refund values, administrative fees to processors, and a reserve for contingencies.

This bill would raise the amount of the redemption payment paid by the distributor and the refund value, as specified. Since the increased payments for the beverage containers that are subject to the act would be deposited in a continuously appropriated fund, the bill would make an appropriation.

Existing law requires that a distributor pay the redemption payment not later than the last day of the 3rd month following the sale and authorizes a distributor, upon the approval of the department, to elect to make a single annual payment if the distributor meets specified conditions and notifies the department of its intent to make annual redemption payments.

This bill would require all beverage distributors to make the redemption payment no later than the last day of the 2nd month following the sale of the beverages. This bill would revise the conditions under which a distributor would be authorized to make a single annual payment. The bill would also authorize a distributor to withhold payment of redemption payments until the next payment period when the

distributor has not received payment for beverage containers on which redemption payments are owed.

(3) Existing law requires certified recycling centers to accept any empty beverage container from a consumer or dropoff or collection program and pay the refund value, which can be based on weight.

This bill would provide, with exceptions, that a recycling center that does not receive handling fees is not required to redeem empty beverage containers of a container type not included in the program before July 1, 2009.

(4) The department is authorized to make specified expenditures from the moneys remaining in the fund after the moneys for certain purposes have been set aside.

This bill would increase the amount of moneys for grants to certified community conservation corps for beverage container litter reduction programs and recycling programs and the amounts the department would be authorized to expend annually for market development payments for empty plastic beverage containers.

The bill would suspend, for the 2009–10 fiscal year, expenditures for grants for beverage container recycling and litter reduction programs and a statewide public education and information campaign aimed at promoting increased recycling of beverage containers.

The bill would reduce the amounts the department is authorized to expend annually to issue grants for recycling market development and expansion-related activities aimed at increasing recycling of beverage containers. The bill would eliminate funds the department is authorized to expend for grants for specified beverage container recycling and litter reduction programs.

The bill would require the department, if there are any reductions in certain expenditures due to insufficient funds, from on or after July 1, 2009, to on or before July 1, 2010, to provide, subject to the availability of funds, retroactive full funding, on or before July 1, 2010.

(5) Existing law requires the department to continuously assist dealers and recyclers to establish certified recycling centers within in each convenience zone.

This bill would provide assistance and incentives to reduce the number of zones not serviced by a certified recycling center.

(6) Existing law requires that regulations governing solid waste facilities include standards for design, operation, maintenance, and ultimate reuse of solid waste facilities.

This bill would prohibit those regulations from including any requirements for processors or recyclers, as defined, where the amount of outgoing solid waste is 15% or less of the total amount of incoming material received by weight calculated on a monthly basis after reasonable adjustment for the weight of moisture, and the amount of putrescible wastes in the outgoing solid waste is 3% or less of the amount of incoming material received by weight calculated on a monthly basis.

(7) The bill would delete obsolete provisions and make conforming changes.

(8) The California Constitution authorizes the Governor to declare a fiscal emergency and to call the Legislature into special session for that purpose. The Governor issued a proclamation declaring a fiscal emergency, and calling a special session for this purpose, on December 19, 2008.

This bill would state that it addresses the fiscal emergency declared by the Governor by proclamation issued on December 19, 2008, pursuant to the California Constitution.

(9) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. It is the intent of the Legislature that projects
2 under contract be fully completed for the thirty-five million dollars
3 \$35,000,000 in market development grants awarded under Section
4 14851 of the Public Resources Code during the 2008–09 fiscal
5 year for which partial or complete encumbrance of funds has taken
6 place by September 1, 2009.

7 SEC. 2. Section 14504 of the Public Resources Code is
8 amended to read:

9 14504. (a) Except as provided in subdivision (b), “beverage”
10 means any of the following products if those products are in liquid,
11 ready-to-drink form, and are intended for human consumption:

12 (1) Beer and other malt beverages.

(2) Wine and distilled spirit coolers.

(3) Carbonated water, including soda and carbonated mineral water.

(4) Noncarbonated water, including noncarbonated mineral water.

(5) Carbonated soft drinks.

(6) Noncarbonated soft drinks and “sport” drinks.

(7) Except as provided in paragraph (4) of subdivision (b), noncarbonated fruit drinks that contain any percentage of fruit juice.

(8) Coffee and tea drinks.

(9) Carbonated fruit drinks.

(10) Vegetable juice in beverage containers of 16 ounces or less.

(b) “Beverage” does not include any of the following:

(1) Any product sold in a container that is not an aluminum beverage container, a glass container, a plastic beverage container, or a bimetal container.

(2) Wine, or wine from which alcohol has been removed, in whole or in part, whether or not sparkling or carbonated.

(3) Milk, medical food, or infant formula.

(4) One hundred percent fruit juice in containers that are 46 ounces or more in volume.

(c) For purposes of this section, the following definitions shall apply:

(1) “Infant formula” means any liquid food described or sold as an alternative for human milk for the feeding of infants.

(2) (A) “Medical food” means a food or beverage that is formulated to be consumed, or administered enterally under the supervision of a physician, and that is intended for specific dietary management of diseases or health conditions for which distinctive nutritional requirements, based on recognized scientific principles, are established by medical evaluation.

(B) A “medical food” is a specially formulated and processed product, for the partial or exclusive feeding of a patient by means of oral intake or enteral feeding by tube, and is not a naturally occurring foodstuff used in its natural state.

(C) “Medical food” includes any product that meets the definition of “medical food” in the ~~federal~~ *Federal Food, Drug, and Cosmetic Act* (21 U.S.C. Sec. 360ee-(b)(3) (b)(3)).

(3) “Noncarbonated soft drink” means a nonalcoholic, noncarbonated naturally or artificially flavored water containing sugar or sweetener or trace amounts of various elements from both natural and synthetic sources.

(d) This section shall remain in effect only until July 1, 2010, and as of that date is repealed, unless a later enacted statute, that is enacted before July 1, 2010, deletes or extends that date.

SEC. 3. Section 14504 is added to the Public Resources Code, to read:

14504. (a) Except as provided in subdivision (b), “beverage” means any of the following products if those products are in liquid, ready-to-drink form, and are intended for human consumption:

(1) Beer and other malt beverages.

(2) Wine and distilled spirit coolers.

(3) Carbonated water, including soda and carbonated mineral water.

(4) Noncarbonated water, including noncarbonated mineral water.

(5) Carbonated soft drinks.

(6) Noncarbonated soft drinks and “sport” drinks.

(7) Vegetable, fruit, nut, grain, or soy drinks or juices, or noncarbonated drinks that contain any percentage of those drinks or juices.

(8) Coffee and tea drinks.

(9) Carbonated fruit drinks.

(b) “Beverage” does not include any of the following:

(1) Wine, or wine from which alcohol has been removed, in whole or in part, whether or not sparkling or carbonated.

(2) Milk, medical food, or infant formula.

(3) Beverages in a flexible foil, plastic pouch, or aseptic container that delivers seven or less fluid ounces of beverage in the container.

(c) For purposes of this section, the following definitions shall apply:

(1) “Infant formula” means any liquid food described or sold as an alternative for human milk for the feeding of infants.

(2) (A) “Medical food” means a food or beverage that is formulated to be consumed, or administered enterally under the supervision of a physician, and that is intended for specific dietary management of diseases or health conditions for which distinctive

1 nutritional requirements, based on recognized scientific principles,
2 are established by medical evaluation.

3 (B) A “medical food” is a specially formulated and processed
4 product, for the partial or exclusive feeding of a patient by means
5 of oral intake or enteral feeding by tube, and is not a naturally
6 occurring foodstuff used in its natural state.

7 (C) “Medical food” includes any product that meets the
8 definition of “medical food” in the Federal Food, Drug, and
9 Cosmetic Act (21 U.S.C. Sec. 360ee (b)(3)).

10 (3) “Noncarbonated soft drink” means a nonalcoholic,
11 noncarbonated naturally or artificially flavored water containing
12 sugar or sweetener or trace amounts of various elements from both
13 natural and synthetic sources.

14 (d) This section shall become operative on July 1, 2010.

15 SEC. 4. Section 14515.3 is added to the Public Resources Code,
16 to read:

17 14515.3. “Paper beverage container” means a paperboard
18 carton, gable-top, aseptic, poly-coated paperboard, or other
19 beverage container made primarily of paper.

20 SEC. 5. Section 14527.5 is added to the Public Resources Code,
21 to read:

22 14527.5. “Unserved convenience zone” means a convenience
23 zone where there is not in operation a certified recycling center or
24 other location that meets the requirements of subdivision (a) of
25 Section 14571, and where the zone is not exempt pursuant to
26 Section 14571.8.

27 SEC. 6. Section 14560 of the Public Resources Code is
28 amended to read:

29 14560. (a) (1) Except as provided in paragraph ~~(3)~~ (4), a
30 beverage distributor shall pay the department, for deposit into the
31 fund, a redemption payment of ~~four cents (\$0.04)~~ *five cents (\$0.05)*
32 for a beverage container sold or offered for sale in this state by the
33 distributor, *on or after January 1, 2010*.

34 (2) A beverage container with a capacity of ~~24~~ 20 fluid ounces
35 or more shall be considered as two beverage containers for
36 purposes of redemption payments paid pursuant to paragraph (1).

37 (3) *For beverage containers sold on or after January 1, 2010,*
38 *the amount of the redemption payment and refund value for a*
39 *beverage container with a capacity of less than 20 fluid ounces*
40 *sold or offered for sale in this state by a dealer shall equal five*

1 cents (\$0.05) and the amount of redemption payment and refund
2 value for a beverage container with a capacity of 20 fluid ounces
3 or more shall be ten cents (\$0.10).

4 ~~(3) On and after July 1, 2007,~~

5 (4) For beverage containers sold on or after July 1, 2007, and
6 before January 1, 2010, the amount of the redemption payment
7 and refund value for a beverage container with a capacity of less
8 than 24 fluid ounces sold or offered for sale in this state by a dealer
9 shall equal five cents (\$0.05) and the amount of redemption
10 payment and refund value for a beverage container with a capacity
11 of 24 fluid ounces or more shall be ten cents (\$0.10), if the
12 aggregate recycling rate reported pursuant to Section 14551 for
13 all beverage containers subject to this division is less than 75
14 percent for the 12-month reporting period from January 1, 2006,
15 to December 31, 2006, or for any calendar year thereafter.

16 ~~(b) Except as provided in subdivision (c), a beverage container~~
17 ~~sold or offered for sale in this state has a refund value of four cents~~
18 ~~(\$0.04) if the beverage container has a capacity of less than 24~~
19 ~~fluid ounces and eight cents (\$0.08) if the beverage container has~~
20 ~~a capacity of 24 fluid ounces or more.~~

21 ~~(c) Notwithstanding subdivision (b), the department may, on~~
22 ~~and after January 1, 2007, but not after July 1, 2007, increase the~~
23 ~~amount of the refund value specified in subdivision (b), by no~~
24 ~~more than one cent (\$0.01), if the container has a capacity of less~~
25 ~~than 24 fluid ounces, and by two cents (\$0.02) if the container has~~
26 ~~a capacity of 24 fluid ounces or more, if the department determines,~~
27 ~~as specified in subdivision (f) of Section 14581, there are sufficient~~
28 ~~moneys remaining in the fund to make these increased payments.~~

29 (5) *This section does not discharge the responsibility of a*
30 *beverage distributor to pay the department the appropriate*
31 *redemption payment as this section read on January 1, 2009, for*
32 *a beverage container sold before January 1, 2010.*

33 ~~(d)~~

34 (b) (1) The department shall periodically review the fund to
35 ensure that there are adequate funds in the fund to pay refund
36 values and other disbursements required by this division.

37 (2) If the department determines, pursuant to a review made
38 pursuant to paragraph (1), that there may be inadequate funds to
39 pay the refund values and necessary disbursements required by

1 this division, the department shall immediately notify the
2 Legislature of the need for urgent legislative action.

3 (3) On or before 180 days, *but not less than 90 days*, after the
4 notice is sent pursuant to paragraph (2), the department may reduce
5 or eliminate expenditures, or both, from the fund as necessary,
6 according to the procedure set forth in Section 14581, to ensure
7 that there are adequate funds in the fund to pay the refund values
8 and other disbursements required by this division.

9 (e)

10 (c) This section does not apply to a refillable beverage container.

11 ~~(f) The repeal and reenactment of this section by Chapter 815~~
12 ~~of the Statutes of 1999 do not affect any obligations or penalties~~
13 ~~imposed by this section, as it read on January 1, 1999.~~

14 SEC. 7. Section 14571.2 of the Public Resources Code is
15 amended to read:

16 14571.2. (a) The department shall continuously assist dealers
17 and recyclers to establish certified recycling locations within each
18 convenience zone. This assistance includes, but is not limited to,
19 providing information to companies and organizations interested
20 in operating recycling in the convenience zone; providing dealers
21 with names of prospective recyclers for the convenience zone and
22 providing recyclers with the names of dealers in need of a recycler
23 for a convenience zone; providing dealers and recyclers with
24 information on grants, advertising funds, and other resources
25 available; and providing recyclers with advice regarding appearance
26 and image of the recycling center and the efficient handling and
27 transportation of recycled beverage containers.

28 (b) *It shall be the goal and responsibility of the department to*
29 *provide assistance and incentives to reduce the number of unserved*
30 *zones to less than 5 percent of total zones by January 1, 2011.*

31 (c) (1) *Notwithstanding the Section 14571.6, for any zone that*
32 *was unserved on July 1, 2009, the obligation of dealers in that*
33 *zone to redeem empty beverage containers in the store shall be*
34 *suspended until December 31, 2010.*

35 (2) *Notwithstanding Section 14585, any dealer that chooses to*
36 *redeem empty beverage containers inside the store shall be eligible*
37 *to receive handling fees pursuant to Section 14585 and a processor*
38 *shall pay refund values, administrative costs, and processing*
39 *payments to the recycling center pursuant to subdivision (a) of*

1 *Section 14573.5 in the same manner as a recycling center*
2 *operating in compliance with Section 14571.*

3 SEC. 8. Section 14571.6.5 is added to the Public Resources
4 Code, to read:

5 14571.6.5. (a) Notwithstanding Section 14571, the department
6 may allow the operator of a certified recycling center to be open
7 for business for less than 30 hours per week, but not less than 20
8 hours per week, if the certified recycling center is located in a
9 convenience zone that has been unserved for at least six continuous
10 months, and is identified by the department as an unserved
11 convenience zone.

12 (b) A recycling center that is authorized by the department
13 pursuant to subdivision (a) shall be eligible to apply for handling
14 fees pursuant to Section 14585, and a processor shall pay refund
15 values, administrative costs, and processing payments to the
16 recycling center pursuant to subdivision (a) of Section 14573.5 in
17 the same manner as a recycling center operating in compliance
18 with Section 14571.

19 (c) The department shall authorize not more than 120 recycling
20 centers in unserved convenience zones pursuant to this section.

21 SEC. 9. Section 14571.6.6 is added to the Public Resources
22 Code, to read:

23 14571.6.6. (a) Notwithstanding Sections 14571 and 14585,
24 the department may authorize the operator of a certified recycling
25 center to be eligible to apply for the payment of handling fees if
26 the recycling center is located in a convenience zone that has been
27 unserved for at least six continuous months, but is not located in
28 a supermarket parking lot, and the convenience zone is identified
29 by the department as an unserved convenience zone.

30 (b) The department shall authorize not more than 120 recycling
31 centers in unserved convenience zones pursuant to this section.

32 SEC. 10. Section 14571.6.7 is added to the Public Resources
33 Code, to read:

34 14571.6.7. (a) Notwithstanding Sections 14585, the department
35 may authorize the operator of a certified recycling center to be
36 eligible for a handling fee equivalent to 120 percent of the current
37 level for a period of 24 months if the recycling center is located
38 in a convenience zone that has been unserved for at least six
39 continuous months and the convenience zone is identified by the
40 department as an unserved convenience zone.

1 (b) The department shall authorize not more than 120 recycling
2 centers in unserved convenience zones pursuant to this section.

3 SEC. 11. Section 14571.8 of the Public Resources Code is
4 amended to read:

5 14571.8. (a) No lease entered into by a dealer after January 1,
6 1987, may contain a leasehold restriction that prohibits or results
7 in the prohibition of the establishment of a recycling location.

8 (b) The director may grant an exemption from the requirements
9 of Section 14571 for an individual convenience zone only after
10 the department solicits public testimony on whether or not to
11 provide an exemption from Section 14571. The solicitation process
12 shall be designed by the department to ensure that operators of
13 recycling centers, dealers, and members of the public in the
14 jurisdiction affected by the proposed exemption are aware of the
15 proposed exemption. After evaluation of the testimony and any
16 field review conducted, the department shall base a decision to
17 exempt a convenience zone on one, or any combination, of the
18 following factors:

19 (1) The exemption will not significantly decrease the ability of
20 consumers to conveniently return beverage containers for the
21 refund value to a certified recycling center redeeming all material
22 types.

23 (2) Except as provided in paragraph (5), the nearest certified
24 recycling center is within a reasonable distance of the convenience
25 zone being considered from exemption.

26 (3) The convenience zone is in the area of a curbside recycling
27 program that meets the criteria specified in Section 14509.5.

28 (4) The requirements of Section 14571 cannot be met in a
29 particular convenience zone due to local zoning or the dealer's
30 leasehold restrictions for leases in effect on January 1, 1987, and
31 the local zoning or leasehold restrictions are not within the
32 authority of the department and the dealer. However, any lease
33 executed after January 1, 1987, shall meet the requirements
34 specified in subdivision (a).

35 (5) The convenience zone has redeemed less than 60,000
36 containers per month for the prior 12 months and, notwithstanding
37 paragraph (2), a certified recycling center is located within one
38 mile of the convenience zone that is the subject of the exemption.

39 (c) The department shall review each convenience zone in which
40 a certified recycling center was not located on January 1, 1996, to

1 determine the eligibility of the convenience zone under the
2 exemption criteria specified in subdivision (b).

3 (d) The total number of exemptions granted by the director
4 under this section shall not exceed ~~35~~ 40 percent of the total
5 number of convenience zones identified pursuant to this section.

6 (e) The department may, on its own motion, or upon petition
7 by any interested person, revoke a convenience zone exemption
8 if either of the following occurs:

9 (1) The condition or conditions that caused the convenience
10 zone to be exempt no longer exists, and the department determines
11 that the criteria for an exemption specified in this section are not
12 presently applicable to the convenience zone.

13 (2) The department determines that the convenience zone
14 exemption was granted due to an administrative error.

15 (f) If an exemption is revoked and a recycling center is not
16 certified and operational in the convenience zone, the department
17 shall, within 10 days of the date of the decision to revoke, serve
18 all dealers in the convenience zone with the notice specified in
19 subdivision (a) of Section 14571.7.

20 (g) An exemption shall not be revoked when a recycling center
21 becomes certified and operational within an exempt convenience
22 zone unless either of the events specified in paragraphs (1) and (2)
23 of subdivision (e) occurs.

24 SEC. 12. Section 14572 of the Public Resources Code is
25 amended to read:

26 14572. (a) Except as provided in subdivision (b), a certified
27 recycling center shall accept from any consumer or dropoff or
28 collection program any empty beverage container, and shall pay
29 to the consumer or dropoff or collection program the refund value
30 of the beverage container. The center may pay the refund value
31 based on the weight of returned containers.

32 (b) Any recycling center or processor which was in existence
33 on January 1, 1986, and which refused, as of January 1, 1986, to
34 accept at a particular location a certain type of empty beverage
35 container may continue to refuse to accept at the location the type
36 or types of empty beverage containers that the recycling center or
37 processor refused to accept as of January 1, 1986. Any certified
38 recycling center which refuses, pursuant to this subdivision, to
39 accept a certain type or types of empty beverage containers is not
40 eligible to receive handling fees unless the center agrees to accept

1 all types of empty beverage containers and is a supermarket site.
2 This subdivision does not preclude the certified recycling center
3 from receiving a handling fee for beverage containers redeemed
4 at supermarket sites which do accept all types of containers.

5 (c) The department shall develop procedures by which recycling
6 centers and processors which meet the criteria of subdivision (b)
7 may recertify to change the material types accepted.

8 (d) (1) Only a certified recycling center may pay the refund
9 value to consumers or dropoff or collection programs. No person
10 shall pay a noncertified recycler for empty beverage containers an
11 amount which exceeds the current scrap value for each container
12 type, which shall be determined in the following manner:

13 (A) For a plastic or glass beverage container, the current scrap
14 value shall be determined by the department.

15 (B) For an aluminum beverage container, the current scrap value
16 shall be not greater than the amount paid to the processor for that
17 aluminum beverage container, on the date the container was
18 purchased, by the location of end use, as defined in the regulations
19 of the department.

20 (2) No person may receive or retain, for empty beverage
21 containers which come from out of state, any refund values,
22 processing payments, or administrative fees for which a claim is
23 made to the department against the fund.

24 (3) Paragraph (1) does not affect curbside programs under
25 contract with cities or counties.

26 (e) (1) *Notwithstanding the provisions of this section, except*
27 *as provided in paragraph (2), a certified recycling center that does*
28 *not receive handling fees shall not be required to redeem empty*
29 *beverage containers of a container type not included in the*
30 *program before July 1, 2009.*

31 (2) *If the department determines that there is a willing purchaser*
32 *of an empty beverage container type offering a scrap price that*
33 *when combined with the processing payment is equal to or greater*
34 *than the cost of recycling, a certified recycling center may not*
35 *claim the exemption in paragraph (1).*

36 SEC. 13. Section 14574 of the Public Resources Code is
37 amended to read:

38 14574. (a) (1) A distributor of beverage containers shall pay
39 to the department the redemption payment for every beverage
40 container, other than a refillable beverage container, sold or

1 transferred to a dealer, less 1.5 percent for the distributor's
2 administrative costs.

3 (2) The payment made by a distributor shall be made not later
4 than the last day of the ~~third~~ *second* month following the sale. The
5 distributor shall make the payment in the form and manner that
6 the department prescribes.

7 (b) (1) Notwithstanding subdivision (a), if a distributor displays
8 a pattern of operation in compliance with this division and the
9 regulations adopted pursuant to this division, to the satisfaction of
10 the department, the distributor may make a single annual payment
11 of redemption payments, if the ~~distributor meets either of the~~
12 ~~following requirements:~~ *distributor's projected redemption*
13 *payment for a calendar year totals less than seventy-five thousand*
14 *dollars (\$75,000).*

15 (A) ~~If the redemption payment and refund value is not increased~~
16 ~~pursuant to paragraph (3) of subdivision (a) of Section 14560, the~~
17 ~~distributor's projected redemption payment for a calendar year~~
18 ~~totals less than fifty thousand dollars (\$50,000).~~

19 (B) ~~If the redemption payment and refund value is increased~~
20 ~~pursuant to paragraph (3) of subdivision (a) of Section 14560, the~~
21 ~~distributor's projected redemption payment for a calendar year~~
22 ~~totals less than seventy-five thousand dollars (\$75,000).~~

23 (2) An annual redemption payment made pursuant to this
24 subdivision is due and payable on or before February 1 for every
25 beverage container sold or transferred by the distributor to a dealer
26 in the previous calendar year.

27 (3) A distributor shall notify the department of its intent to make
28 an annual redemption payment pursuant to this subdivision on or
29 before January 31 of the calendar year for which the payment will
30 be due.

31 (4) *A distributor may withhold payment of redemption payments*
32 *when the distributor has not received payment for beverage*
33 *containers on which redemption payments are owed pursuant to*
34 *this division until the next payment period.*

35 SEC. 14. Section 14575 of the Public Resources Code is
36 amended to read:

37 14575. (a) If any type of empty beverage container with a
38 refund value established pursuant to Section 14560 has a scrap
39 value less than the cost of recycling, the department shall, on
40 January 1, 2000, and on or before January 1 annually thereafter,

1 establish a processing fee and a processing payment for the
2 container by the type of the material of the container.

3 (b) The processing payment shall be at least equal to the
4 difference between the scrap value offered to a statistically
5 significant sample of recyclers by willing purchasers, and except
6 for the initial calculation made pursuant to subdivision (d), the
7 sum of both of the following:

8 (1) The actual cost for certified recycling centers, excluding
9 centers receiving a handling fee, of receiving, handling, storing,
10 transporting, and maintaining equipment for each container sold
11 for recycling or, only if the container is not recyclable, the actual
12 cost of disposal, calculated pursuant to subdivision (c). The
13 department shall determine the statewide weighted average cost
14 to recycle each beverage container type, which shall serve as the
15 actual recycling costs for purposes of paragraph (2) of subdivision
16 (c), by conducting a survey of the costs of a statistically significant
17 sample of certified recycling centers, excluding those recycling
18 centers receiving a handling fee, for receiving, handling, storing,
19 transporting, and maintaining equipment.

20 (2) A reasonable financial return for recycling centers.

21 (c) The department shall base the processing payment pursuant
22 to this section upon all of the following:

23 (1) Except as provided in paragraph (2), for calculating
24 processing payments that will be in effect on and after January 1,
25 2004, the department shall determine the actual costs for certified
26 recycling centers, every second year, pursuant to paragraph (1) of
27 subdivision (b). The department shall adjust the recycling costs
28 annually to reflect changes in the cost of living, as measured by
29 the Bureau of Labor Statistics of the United States Department of
30 Labor or a successor agency of the United States government.

31 (2) On and after January 1, 2010, the department shall use the
32 most recently published, measured actual costs of recycling for a
33 specific beverage material type if the department determines the
34 number of beverage containers for that material type that is returned
35 for recycling pursuant to Section 14551, based on the most recently
36 published calendar year number of beverage containers returned
37 for recycling, is less than 5 percent of the total number of beverage
38 containers returned for recycling for all material types. The
39 department shall determine the actual recycling cost to be used for

1 calculating processing payments for those beverage containers in
2 the following manner:

3 (A) The department shall adjust the costs of recycling that
4 material type every second year by the percentage change in the
5 most recently measured cost of recycling HDPE plastic beverage
6 containers, as determined by the department. The department shall
7 use the percentage change in costs of recycling HDPE plastic
8 beverage containers for this purpose, even if HDPE plastic
9 beverage containers are less than 5 percent of the total volume of
10 returned beverage containers.

11 (B) The department shall adjust the recycling costs annually for
12 that material type to reflect changes in the cost of living, as
13 measured by the Bureau of Labor Statistics of the United States
14 Department of Labor or a successor agency of the United States
15 government.

16 (3) *Notwithstanding the provisions of this section, for the 2010*
17 *and 2011 calendar years only, the processing payment for each*
18 *paper beverage container recycled shall be the equivalent of one*
19 *hundred thirty-five dollars (\$135) per ton and the processing fee*
20 *for each paper beverage container sold shall be the equivalent of*
21 *35 percent of one hundred thirty-five dollars (\$135) per ton.*

22 (d) Except as specified in subdivision (e), the actual processing
23 fee paid by a beverage manufacturer shall equal 65 percent of the
24 processing payment calculated pursuant to subdivision (b).

25 (e) The department, consistent with Section 14581 and subject
26 to the availability of funds, shall reduce the processing fee paid
27 by beverage manufacturers by expending funds in each material
28 processing fee account, in the following manner:

29 (1) On January 1, 2005, and annually thereafter, the processing
30 fee shall equal the following amounts:

31 (A) Ten percent of the processing payment for a container type
32 with a recycling rate equal to or greater than 75 percent.

33 (B) Eleven percent of the processing payment for a container
34 type with a recycling rate equal to or greater than 65 percent, but
35 less than 75 percent.

36 (C) Twelve percent of the processing payment for a container
37 type with a recycling rate equal to or greater than 60 percent, but
38 less than 65 percent.

1 (D) Thirteen percent of the processing payment for a container
2 type with a recycling rate equal to or greater than 55 percent, but
3 less than 60 percent.

4 (E) Fourteen percent of the processing payment for a container
5 type with a recycling rate equal to or greater than 50 percent, but
6 less than 55 percent.

7 (F) Fifteen percent of the processing payment for a container
8 type with a recycling rate equal to or greater than 45 percent, but
9 less than 50 percent.

10 (G) Eighteen percent of the processing payment for a container
11 type with a recycling rate equal to or greater than 40 percent, but
12 less than 45 percent.

13 (H) Twenty percent of the processing payment for a container
14 type with a recycling rate equal to or greater than 30 percent, but
15 less than 40 percent.

16 (I) Sixty-five percent of the processing payment for a container
17 type with a recycling rate less than 30 percent.

18 (2) The department shall calculate the recycling rate for purposes
19 of paragraph (1) based on the 12-month period ending on June 30
20 that directly precedes the date of the January 1 processing fee
21 determination.

22 (f) Not more than once every three months, the department may
23 make an adjustment in the amount of the processing payment
24 established pursuant to this section notwithstanding any change
25 in the amount of the processing fee established pursuant to this
26 section, for any beverage container, if the department makes the
27 following determinations:

28 (1) The statewide scrap value paid by processors for the material
29 type for the most recent available 12-month period directly
30 preceding the quarter in which the processing payment is to be
31 adjusted is 5 percent more or 5 percent less than the average scrap
32 value used as the basis for the processing payment currently in
33 effect.

34 (2) Funds are available in the processing fee account for the
35 material type.

36 (3) Adjusting the processing payment is necessary to further
37 the objectives of this division.

38 (g) (1) Except as provided in paragraphs (2) and (3), every
39 beverage manufacturer shall pay to the department the applicable
40 processing fee for each container sold or transferred to a distributor

1 or dealer within 40 days of the sale in the form and in the manner
2 which the department may prescribe.

3 (2) (A) Notwithstanding Section 14506, with respect to the
4 payment of processing fees for beer and other malt beverages
5 manufactured outside the state, the beverage manufacturer shall
6 be deemed to be the person or entity named on the certificate of
7 compliance issued pursuant to Section 23671 of the Business and
8 Professions Code. If the department is unable to collect the
9 processing fee from the person or entity named on the certificate
10 of compliance, the department shall give written notice by certified
11 mail, return receipt requested, to that person or entity. The notice
12 shall state that the processing fee shall be remitted in full within
13 30 days of issuance of the notice or the person or entity shall not
14 be permitted to offer that beverage brand for sale within the state.
15 If the person or entity fails to remit the processing fee within 30
16 days of issuance of the notice, the department shall notify the
17 Department of Alcoholic Beverage Control that the certificate
18 holder has failed to comply, and the Department of Alcoholic
19 Beverage Control shall prohibit the offering for sale of that
20 beverage brand within the state.

21 (B) The department shall enter into a contract with the
22 Department of Alcoholic Beverage Control, pursuant to Section
23 14536.5, concerning the implementation of this paragraph, which
24 shall include a provision reimbursing the Department of Alcoholic
25 Beverage Control for its costs incurred in implementing this
26 paragraph.

27 (3) (A) Notwithstanding paragraph (1), if a beverage
28 manufacturer displays a pattern of operation in compliance with
29 this division and the regulations adopted pursuant to this division,
30 to the satisfaction of the department, the beverage manufacturer
31 may make a single annual payment of processing fees, if the
32 beverage manufacturer meets either of the following conditions:

33 (i) If the redemption payment and refund value is not increased
34 pursuant to paragraph (3) of subdivision (a) of Section 14560, the
35 beverage manufacturer's projected processing fees for a calendar
36 year total less than ten thousand dollars (\$10,000).

37 (ii) If the redemption payment and refund value is increased
38 pursuant to paragraph (3) of subdivision (a) of Section 14560, the
39 beverage manufacturer's projected processing fees for a calendar
40 year total less than fifteen thousand dollars (\$15,000).

1 (B) An annual processing fee payment made pursuant to this
2 paragraph is due and payable on or before February 1 for every
3 beverage container sold or transferred by the beverage
4 manufacturer to a distributor or dealer in the previous calendar
5 year.

6 (C) A beverage manufacturer shall notify the department of its
7 intent to make an annual processing fee payment pursuant to this
8 paragraph on or before January 31 of the calendar year for which
9 the payment will be due.

10 (4) The department shall pay the processing payments on
11 redeemed containers to processors, in the same manner as it pays
12 refund values pursuant to Sections 14573 and 14573.5. The
13 processor shall pay the recycling center the entire processing
14 payment representing the actual costs and financial return incurred
15 by the recycling center, as specified in subdivision (b).

16 (h) When assessing processing fees pursuant to subdivision (a),
17 the department shall assess the processing fee on each container
18 sold, as provided in subdivisions (d) and (e), by the type of material
19 of the container, assuming that every container sold will be
20 redeemed for recycling, whether or not the container is actually
21 recycled.

22 (i) The container manufacturer, or a designated agent, shall pay
23 to, or credit, the account of the beverage manufacturer in an amount
24 equal to the processing fee.

25 (j) If, at the end of any calendar year for which glass recycling
26 rates equal or exceed 45 percent and sufficient surplus funds remain
27 in the glass processing fee account to make the reduction pursuant
28 to this subdivision or if, at the end of any calendar year for which
29 PET recycling rates equal or exceed 45 percent and sufficient
30 surplus funds remain in the PET processing fee account to make
31 the reduction pursuant to this subdivision, the department shall
32 use these surplus funds in the respective processing fee accounts
33 in the following calendar year to reduce the amount of the
34 processing fee that would otherwise be due from glass or PET
35 beverage manufacturers pursuant to this subdivision.

36 (1) The department shall reduce the glass or PET processing
37 fee amount pursuant to this subdivision in addition to any reduction
38 for which the glass or PET beverage container qualifies under
39 subdivision (e).

(2) The department shall determine the processing fee reduction by dividing two million dollars (\$2,000,000) from each processing fee account by an estimate of the number of containers sold or transferred to a distributor during the previous calendar year, based upon the latest available data.

SEC. 15. Section 14581 of the Public Resources Code is amended to read:

14581. (a) Subject to the availability of funds, and pursuant to subdivision (c), the department shall expend the moneys set aside in the fund, pursuant to subdivision (c) of Section 14580, for the purposes of this section:

~~(1) (A) On and after July 1, 2005, to June 30, 2006, inclusive, up to thirty-one million dollars (\$31,000,000) may be expended for that fiscal year for the payment of handling fees pursuant to Section 14585.~~

~~(B) On and after July 1, 2006, to June 30, 2007, inclusive, up to thirty-three million dollars (\$33,000,000) may be expended for that fiscal year for the payment of handling fees pursuant to Section 14585.~~

~~(C) On and after July 1, 2007, to June 30, 2008, inclusive, up to thirty-five million dollars (\$35,000,000) may be expended for that fiscal year for the payment of handling fees pursuant to Section 14585.~~

~~(D)~~

(1) For each fiscal year commencing July 1, 2008, the department may expend the amount necessary to make the required handling fee payment pursuant to Section 14585.

(2) Fifteen million dollars (\$15,000,000) shall be expended annually for payments for curbside programs and neighborhood dropoff programs pursuant to Section 14549.6.

(3) (A) ~~Fifteen million dollars (\$15,000,000)~~ *Except as provided in subparagraph (C), twenty-two million dollars (\$22,000,000),* plus the proportional share of the cost-of-living adjustment, as provided in subdivision (b), shall be expended annually in the form of grants for beverage container litter reduction programs and recycling programs issued to either of the following:

(i) Certified community conservation corps that were in existence on September 30, 1999, or that are formed subsequent to that date, that are designated by a city or a city and county to perform litter abatement, recycling, and related activities, if the

1 city or the city and county has a population, as determined by the
2 most recent census, of more than 250,000 persons.

3 (ii) Community conservation corps that are designated by a
4 county to perform litter abatement, recycling, and related activities,
5 and are certified by the California Conservation Corps as having
6 operated for a minimum of two years and as meeting all other
7 criteria of Section 14507.5.

8 (B) Any grants provided pursuant to this paragraph shall not
9 comprise more than 75 percent of the annual budget of a
10 community conservation corps.

11 ~~(4) (A) On or after July 1, 2007, until June 30, 2008, for only~~
12 ~~that fiscal year, up to twenty million dollars (\$20,000,000) may~~
13 ~~be expended in the form of competitive grants issued to community~~
14 ~~conservation corps that are designated by a city or county, and that~~
15 ~~meet all of the following criteria:~~

16 ~~(i) Are certified by the California Conservation Corps as having~~
17 ~~operated for a minimum of two years.~~

18 ~~(ii) Meet all other requirements under Section 14507.5.~~

19 ~~(B) The department shall prepare and adopt criteria and~~
20 ~~procedures for evaluating grant applications on a competitive basis.~~
21 ~~Eligible activities for the use of these funds shall include~~
22 ~~developing new projects, or enhancing or assisting existing~~
23 ~~projects, to increase beverage container recycling and increasing~~
24 ~~the quality of recycled material at the following locations:~~

25 ~~(i) Multifamily dwellings.~~

26 ~~(ii) Schools.~~

27 ~~(iii) Commercial, state, and local government buildings.~~

28 ~~(iv) Bars, restaurants, hotels, and lodging establishments, and~~
29 ~~entertainment venues.~~

30 ~~(v) Parks and beaches.~~

31 ~~(C) Any grants provided pursuant to this paragraph shall not~~
32 ~~comprise more than 75 percent of the annual budget of a~~
33 ~~community conservation corps.~~

34 ~~(D) Any grants provided pursuant to this paragraph shall support~~
35 ~~one-time capital improvement projects and shall not be used to~~
36 ~~support ongoing staff activities.~~

37 ~~(E) Any grant funds appropriated pursuant to this paragraph~~
38 ~~that have not been awarded to a grantee prior to the end of the~~
39 ~~2007-08 fiscal year shall revert to the fund.~~

1 (C) For the 2009–10 fiscal year only, the total amount expended
2 pursuant to this paragraph shall include the eight million two
3 hundred fifty thousand dollars (\$8,250,000) allocated in the
4 2009–10 annual Budget Act.

5 ~~(5)~~

6 (4) (A) Ten million five hundred thousand dollars (\$10,500,000)
7 may be expended annually for payments of five thousand dollars
8 (\$5,000) to cities and ten thousand dollars (\$10,000) for payments
9 to counties for beverage container recycling and litter cleanup
10 activities, or the department may calculate the payments to counties
11 and cities on a per capita basis, and may pay whichever amount
12 is greater, for those activities.

13 (B) Eligible activities for the use of these funds may include,
14 but are not necessarily limited to, support for new or existing
15 curbside recycling programs, neighborhood dropoff recycling
16 programs, public education-promoting beverage container
17 recycling, litter prevention, and cleanup, cooperative regional
18 efforts among two or more cities or counties, or both, or other
19 beverage container recycling programs.

20 (C) These funds may not be used for activities unrelated to
21 beverage container recycling or litter reduction.

22 (D) To receive these funds, a city, county, or city and county
23 shall fill out and return a funding request form to the Department
24 of Conservation. The form shall specify the beverage container
25 recycling or litter reduction activities for which the funds will be
26 used.

27 (E) The Department of Conservation shall annually prepare and
28 distribute a funding request form to each city, county, or city and
29 county. The form shall specify the amount of beverage container
30 recycling and litter cleanup funds for which the jurisdiction is
31 eligible. The form shall not exceed one double-sided page in length,
32 and may be submitted electronically. If a city, county, or city and
33 county does not return the funding request form within 90 days of
34 receipt of the form from the department, the city, county, or city
35 and county is not eligible to receive the funds for that funding
36 cycle.

37 (F) (i) For the purposes of this paragraph, per capita population
38 shall be based on the population of the incorporated area of a city
39 or city and county and the unincorporated area of a county. The
40 department may withhold payment to any city, county, or city and

1 county that has prohibited the siting of a supermarket site, caused
2 a supermarket site to close its business, or adopted a land use policy
3 that restricts or prohibits the siting of a supermarket site within its
4 jurisdiction.

5 *(ii) The department may withhold all or a portion of the payment*
6 *to any city, county, or city and county that has prohibited the siting*
7 *of a supermarket site, caused a supermarket site to close its*
8 *business, or adopted a land use policy that restricts or prohibits*
9 *the siting of a supermarket site within its jurisdiction, resulting in*
10 *an unserved zone.*

11 ~~(6)~~

12 (5) One million five hundred thousand dollars (\$1,500,000) may
13 be expended annually in the form of grants for beverage container
14 recycling and litter reduction programs. *The expenditure of these*
15 *funds is suspended for the 2009–10 fiscal year.*

16 ~~(7)~~

17 (6) (A) The department shall expend the amount necessary to
18 pay the processing payment ~~and supplemental processing payment~~
19 ~~established pursuant to Sections 14575 and 14575.5 and pay~~
20 ~~processing fee rebates pursuant to Section 14575.2 established~~
21 ~~pursuant to Section 14575.~~ The department shall establish separate
22 processing fee accounts in the fund for each beverage container
23 material type for which a processing payment and processing fee
24 are calculated pursuant to Section 14575, or for which a processing
25 payment is calculated pursuant to Section 14575 and a voluntary
26 artificial scrap value is calculated pursuant to Section 14575.1,
27 into which account shall be deposited all of the following:

28 (i) All amounts paid as processing fees for each beverage
29 container material type pursuant to *subdivisions (d) and (e) of*
30 *Section 14575.*

31 ~~(ii) Funds equal to the difference between the amount in clause~~
32 ~~(i) and the amount of the processing payments established in~~
33 ~~subdivision (b) of Section 14575, and adjusted pursuant to~~
34 ~~paragraph (2) of subdivision (c) of, and subdivision (f) of, Section~~
35 ~~14575, to reduce the processing fee to the level provided in~~
36 ~~subdivision (f) of Section 14575, or to reflect the agreement by a~~
37 ~~willing purchaser to pay a voluntary artificial scrap value pursuant~~
38 ~~to Section 14575.1.~~

~~(iii) Funds equal to an amount sufficient to pay the total amount of the supplemental processing payments established pursuant to Section 14575.5.~~

~~(ii) Funds equal to the difference between the amount in clause (i) and the amount needed to make processing payments pursuant to subdivision (b) of Section 14575.~~

~~(B) Notwithstanding Section 13340 of the Government Code, the moneys in each processing fee account are hereby continuously appropriated to the department for expenditure without regard to fiscal years, for purposes of making processing payments and supplemental processing payments, and reducing processing fees, pursuant to Sections Section 14575 and 14575.5, and paying processing fee rebates pursuant to Section 14575.2.~~

~~(8)~~

~~(7) Up to five million dollars (\$5,000,000) may be annually expended by the department for the purposes of undertaking a statewide public education and information campaign aimed at promoting increased recycling of beverage containers. The expenditure of these funds is suspended for the 2009–10 fiscal year.~~

~~(9) Until January 1, 2008, the department may expend up to five million dollars (\$5,000,000) for the purposes of undertaking a statewide public education and information campaign aimed at promoting increased recycling of beverage containers that meets both of the following requirements:~~

~~(A) The public education and information campaign is multimedia and includes print, radio, and television.~~

~~(B) The public education and information campaign is multilingual.~~

~~(10)~~

~~(8) Up to fifteen million dollars (\$15,000,000) may be expended annually by the department for quality incentive payments for empty beverage containers pursuant to Section 14549.1.~~

~~(11)~~

~~(9) Up to twenty million dollars (\$20,000,000) two million dollars (\$2,000,000) may be expended annually by the department, until January 1, 2012, to issue grants for recycling market development and expansion-related activities aimed at increasing the recycling of beverage containers, including, but not limited to, the following:~~

1 (A) Research and development of collecting, sorting, processing,
2 cleaning, or otherwise upgrading the market value of recycled
3 beverage containers.

4 (B) Identification, development, and expansion of markets for
5 recycled beverage containers.

6 (C) Research and development for products manufactured using
7 recycled beverage containers.

8 (D) Research and development to provide high-quality materials
9 that are substantially free of contamination.

10 (E) Payments to California manufacturers who recycle beverage
11 containers that are marked by resin type identification code “3,”
12 “4,” “5,” “6,” or “7,” pursuant to Section 18015.

13 ~~(12) Up to ten million dollars (\$10,000,000) may be transferred~~
14 ~~on a one-time basis by the department to the Recycling~~
15 ~~Infrastructure Loan Guarantee Account, for expenditure pursuant~~
16 ~~to Section 14582.~~

17 *(F) Upgrading or retrofitting of existing facilities that process*
18 *or use postconsumer beverage container material, to increase the*
19 *amount of postconsumer beverage container material being used*
20 *or to meet or exceed standards set in state environmental laws,*
21 *regulations, and policies.*

22 *(G) Construction of new facilities that process or use*
23 *postconsumer beverage container material, including, but not*
24 *limited to, aseptic beverage container materials, and that will meet*
25 *or exceed standards set in state environmental laws, regulations,*
26 *and policies.*

27 *(H) Payments to manufacturers located in this state that utilize*
28 *material from the types of recycled beverage containers that are*
29 *generated in this state and that were not subject to this division*
30 *before January 1, 2010, but that became subject to this division*
31 *on and after January 1, 2010.*

32 ~~(13)~~

33 *(10) Up to ten million dollars (\$10,000,000) may be expended*
34 *annually by the department for the payment of recycling incentive*
35 *payments pursuant to Section 14549.7 until payments for eligible*
36 *beverage containers redeemed or collected for recycling on or*
37 *before December 31, 2009, have been paid.*

38 ~~(14)~~

39 ~~*(11) Up to five million dollars (\$5,000,000) eight million dollars*~~
40 ~~*(\$8,000,000) may be expended annually by the department for*~~

1 market development payments for empty plastic beverage
2 containers pursuant to Section 14549.2, until January 1, 2012 2015.

3 ~~(15) Up to five million dollars (\$5,000,000) may be expended;~~
4 ~~by the department, on a one-time basis beginning on January 1,~~
5 ~~2007, in coordination with the Department of Parks and Recreation~~
6 ~~for the purposes of installing source-separated beverage container~~
7 ~~recycling receptacles at each of the state parks, starting with those~~
8 ~~parks that have the highest day use.~~

9 ~~(16) Up to five million dollars (\$5,000,000) may be expended;~~
10 ~~from January 1, 2007, to January 1, 2008, to provide grants to local~~
11 ~~governments or nonprofit agencies to place multifamily housing~~
12 ~~source-separated beverage container recycling receptacles in~~
13 ~~low-income communities.~~

14 ~~(17) (A) Up to fifteen million dollars (\$15,000,000) may be~~
15 ~~expended from January 1, 2008, to January 1, 2009, to provide~~
16 ~~grants to place source-separated beverage container recycling~~
17 ~~receptacles in multifamily housing.~~

18 ~~(B) Notwithstanding subdivision (b) of Section 14580, the~~
19 ~~amount of one hundred ninety-eight thousand dollars (\$198,000)~~
20 ~~may be expended by the department from the fund, on a one-time~~
21 ~~basis, for the administrative costs of implementing the grant~~
22 ~~program established by subparagraph (A).~~

23 ~~(18) (A) Up to twenty million dollars (\$20,000,000) may be~~
24 ~~expended from July 1, 2009, to January 1, 2012, inclusive, for~~
25 ~~either of the following:~~

26 ~~(i) Grants for beverage container recycling and litter reduction~~
27 ~~programs that emphasize the greatest and most effective collection~~
28 ~~of beverage containers per dollar spent to ensure the program's~~
29 ~~performance and accountability.~~

30 ~~(ii) Focused, regional community beverage container recycling~~
31 ~~and litter reduction programs that enable the department to more~~
32 ~~effectively organize the amount and type of resources needed for~~
33 ~~regional and statewide efforts to increase recycling.~~

34 ~~(B) The department shall require, as a condition of receiving~~
35 ~~grant funds pursuant to subparagraph (A), each grant recipient to~~
36 ~~submit a final report including, but not limited to, the grant~~
37 ~~recipient's reported volumes of beverage containers recycled,~~
38 ~~where applicable.~~

39 ~~(C) On or before July 1, 2014, the department shall publish an~~
40 ~~evaluation of all grants made pursuant to paragraph (A). At a~~

1 ~~minimum, the evaluation shall summarize each final report~~
2 ~~submitted by each grantee pursuant to subparagraph (B) and assess~~
3 ~~whether the grantee adequately met the scope and objectives~~
4 ~~outlined in the grant agreement.~~

5 (b) ~~The fifteen million dollars (\$15,000,000) amount~~ that is set
6 aside pursuant to paragraph (3) of subdivision (a) is a base amount
7 that the department shall adjust annually to reflect any increases
8 or decreases in the cost of living, as measured by the Department
9 of Labor, or a successor agency, of the federal government.

10 (c) (1) The department shall review all funds on a quarterly
11 basis to ensure that there are adequate funds to make the payments
12 specified in this section and the processing fee reductions required
13 pursuant to Section 14575.

14 (2) If the department determines, pursuant to a review made
15 pursuant to paragraph (1), that there may be inadequate funds to
16 pay the payments required by this section and the processing fee
17 reductions required pursuant to Section 14575, the department
18 shall immediately notify the appropriate policy and fiscal
19 committees of the Legislature regarding the inadequacy.

20 (3) On or before 180 days after the notice is sent pursuant to
21 paragraph (2), the department may reduce or eliminate
22 expenditures, or both, from the funds as necessary, according to
23 the procedure set forth in subdivision (d).

24 (d) If the department determines that there are insufficient funds
25 to make the payments specified pursuant to this section and Section
26 14575, the department shall reduce all payments proportionally.

27 (e) Prior to making an expenditure pursuant to paragraph ~~(7)~~
28 ~~(6)~~ of subdivision (a), the department shall convene an advisory
29 committee consisting of representatives of the beverage industry,
30 beverage container manufacturers, environmental organizations,
31 the recycling industry, nonprofit organizations, and retailers to
32 advise the department on the most cost-effective and efficient
33 method of the expenditure of the funds for that education and
34 information campaign.

35 ~~(f) After setting aside money for the expenditures required~~
36 ~~pursuant to subdivisions (a) and (b) and Section 14580, the~~
37 ~~department may, on and after January 1, 2007, but not after July~~
38 ~~1, 2007, expend remaining moneys in the fund to pay a refund~~
39 ~~value in an amount greater than the refund value established~~
40 ~~pursuant to subdivision (b) of Section 14560.~~

1 (f) (1) Notwithstanding any other provision of law, the
2 expenditures pursuant to this section shall apply retroactively to
3 July 1, 2009.

4 (2) Notwithstanding any other provision of law, for any
5 reduction in expenditures specified in this section, made pursuant
6 to subdivision (d), from on or after July 1, 2009, to on or before
7 July 1, 2010, subject to the availability of funds, the department
8 shall provide retroactive full funding, on or before July 1, 2010.

9 SEC. 16. Section 14585 of the Public Resources Code is
10 amended to read:

11 14585. (a) The department shall adopt guidelines and methods
12 for paying handling fees to supermarket sites, nonprofit
13 convenience zone recyclers, or rural region recyclers to provide
14 an incentive for the redemption of empty beverage containers in
15 convenience zones. The guidelines shall include, but not be limited
16 to, all of the following:

17 (1) Handling fees shall be paid on a monthly basis, in the form
18 and manner adopted by the department. The department shall
19 require that claims for the handling fee be filed with the department
20 not later than the first day of the second month following the month
21 for which the handling fee is claimed as a condition of receiving
22 any handling fee.

23 (2) (A) To be eligible for any handling fee, a supermarket site
24 recycling center, nonprofit convenience zone recycler, or rural
25 region recycler shall redeem not less than 60,000 beverage
26 containers, during the calendar month in which the handling fee
27 is claimed or have redeemed not less than an average of 60,000
28 beverage containers per month during the previous 12 months.

29 (B) Subparagraph (A) shall not apply on and after July 1, 2008.

30 (3) (A) A beverage container with a capacity of ~~24~~ 20 fluid
31 ounces or more shall be considered as two beverage containers for
32 purposes of determining the eligibility percentage, any handling
33 fee calculations, and payments.

34 (B) Subparagraph (A) shall not apply on and after July 1, ~~2008~~
35 2012.

36 (4) The department shall determine the number of eligible
37 containers per site for which a handling fee will be paid in the
38 following manner:

1 (A) Each eligible site's combined monthly volume of glass and
2 plastic beverage containers shall be divided by the site's total
3 monthly volume of all empty beverage container types.

4 (B) If the quotient determined pursuant to subparagraph (A) is
5 equal to, or more than, 10 percent, the total monthly volume of
6 the site shall be the maximum volume which is eligible for a
7 handling fee for that month.

8 (C) If the quotient determined pursuant to subparagraph (A) is
9 less than 10 percent, the department shall divide the volume of
10 glass and plastic beverage containers by 10 percent. That quotient
11 shall be the maximum volume that is eligible for a handling fee
12 for that month.

13 (5) (A) From the effective date of the statute enacted by
14 Assembly Bill 3056 of the 2005–06 Regular Session to June 30,
15 2008, inclusive, the department shall pay a handling fee of 1.8
16 cents (\$0.018) per eligible beverage container, as determined
17 pursuant to paragraph (4).

18 (B) On and after July 1, 2008, the department shall pay a
19 handling fee per eligible container in the amount determined
20 pursuant to subdivision (f).

21 (6) (A) Notwithstanding paragraph (5), the total handling fee
22 payment to a supermarket site, nonprofit convenience zone
23 recycler, or rural region recycler shall not exceed two thousand
24 three hundred dollars (\$2,300) per month.

25 (B) Subparagraph (A) shall not apply on and after July 1, 2008.

26 (7) If the eligible volume in any given month would result in
27 handling fee payments that exceed the allocation of funds for that
28 month, as provided in subdivision (b), sites with higher eligible
29 monthly volumes shall receive handling fees for their entire eligible
30 monthly volume before sites with lower eligible monthly volumes
31 receive any handling fees.

32 (8) (A) If a dealer where a supermarket site, nonprofit
33 convenience zone recycler, or rural region recycler is located ceases
34 operation for remodeling or for a change of ownership, the operator
35 of that supermarket site nonprofit convenience zone recycler, or
36 rural region recycler shall be eligible to apply for handling fees
37 for that site for a period of three months following the date of the
38 closure of the dealer.

39 (B) Every supermarket site operator, nonprofit convenience
40 zone recycler, or rural region recycler shall promptly notify the

1 department of the closure of the dealer where the supermarket site,
2 nonprofit convenience zone recycler, or rural region recycler is
3 located.

4 (C) Notwithstanding subparagraph (A), any operator who fails
5 to provide notification to the department pursuant to subparagraph
6 (B) shall not be eligible to apply for handling fees.

7 (b) The department may allocate the amount authorized for
8 expenditure for the payment of handling fees pursuant to paragraph
9 (1) of subdivision (a) of Section 14581 on a monthly basis and
10 may carry over any unexpended monthly allocation to a subsequent
11 month or months. However, unexpended monthly allocations shall
12 not be carried over to a subsequent fiscal year for the purpose of
13 paying handling fees but may be carried over for any other purpose
14 pursuant to Section 14581.

15 (c) (1) The department shall not make handling fee payments
16 to more than one certified recycling center in a convenience zone.
17 If a dealer is located in more than one convenience zone, the
18 department shall offer a single handling fee payment to a
19 supermarket site located at that dealer. This handling fee payment
20 shall not be split between the affected zones. The department shall
21 stop making handling fee payments if another recycling center
22 certifies to operate within the convenience zone without receiving
23 payments pursuant to this section, if the department monitors the
24 performance of the other recycling center for 60 days and
25 determines that the recycling center is in compliance with this
26 division. Any recycling center that locates in a convenience zone,
27 thereby causing a preexisting recycling center to become ineligible
28 to receive handling fee payments, is ineligible to receive any
29 handling fee payments in that convenience zone.

30 (2) The department shall offer a single handling fee payment
31 to a rural region recycler located anywhere inside a convenience
32 zone, if that convenience zone is not served by another certified
33 recycling center and the rural region recycler does either of the
34 following:

35 (A) Operates a minimum of 30 hours per week in one
36 convenience zone.

37 (B) Serves two or more convenience zones, and meets all of the
38 following criteria:

39 (i) Is the only certified recycler within each convenience zone.

1 (ii) Is open and operating at least eight hours per week in each
2 convenience zone and is certified at each location.

3 (iii) Operates at least 30 hours per week in total for all
4 convenience zones served.

5 (d) The department may require the operator of a supermarket
6 site or rural region recycler receiving handling fees to maintain
7 records for each location where beverage containers are redeemed,
8 and may require the supermarket site or rural region recycler to
9 take any other action necessary for the department to determine
10 that the supermarket site or rural region recycler does not receive
11 an excessive handling fee.

12 (e) The department may determine and utilize a standard
13 container per pound rate, for each material type, for the purpose
14 of calculating volumes and making handling fee payments.

15 (f) (1) On or before January 1, 2008, and every two years
16 thereafter, the department shall conduct a survey pursuant to this
17 subdivision of a statistically significant sample of certified
18 recycling centers that receive handling fee payments to determine
19 the actual cost incurred for the redemption of empty beverage
20 containers by those certified recycling centers. The department
21 shall conduct these cost surveys in conjunction with the cost
22 surveys performed by the department pursuant to subdivision (b)
23 of Section 14575 to determine processing payments and processing
24 fees. The department shall include, in determining the actual costs,
25 only those allowable costs contained in the regulations adopted
26 pursuant to this division that are used by the department to conduct
27 cost surveys pursuant to subdivision (b) of Section 14575.

28 (2) Using the information obtained pursuant to paragraph (1),
29 the department shall then determine the statewide weighted average
30 cost incurred for the redemption of empty beverage containers,
31 per empty beverage container, at recycling centers that receive
32 handling fees.

33 (3) On and after July 1, 2008, the department shall determine
34 the amount of the handling fee to be paid for each empty beverage
35 container by subtracting the amount of the statewide weighted
36 average cost per container to redeem empty beverage containers
37 by recycling centers that do not receive handling fees from the
38 amount of the statewide weighted average cost per container
39 determined pursuant to paragraph (2).

(4) The department shall adjust the statewide average cost determined pursuant to paragraph (2) for each beverage container annually to reflect changes in the cost of living, as measured by the Bureau of Labor Statistics of the United States Department of Labor or a successor agency of the United States government.

(5) The cost information collected pursuant to this section at recycling centers that receive handling fees shall not be used in the calculation of the processing payments determined pursuant to Section 14575.

SEC. 17. Section 43021 of the Public Resources Code is amended to read:

43021. (a) Regulations shall include standards for the design, operation, maintenance, and ultimate reuse of solid waste facilities, but shall not include aspects of solid waste handling or disposal which are solely of local concern or which are within the jurisdiction of the State Air Resources Board, air pollution control districts and air quality management districts, or the state water board or regional water boards.

(b) *The regulations shall not include any requirements for processors or recyclers, as defined in Sections 14518 and 14519.5, where the amount of outgoing solid waste is 15 percent or less of the total amount of incoming material received by weight calculated on a monthly basis after reasonable adjustment for the weight of moisture, and the amount of putrescible wastes in the outgoing solid waste is 3 percent or less of the amount of incoming material received by weight calculated on a monthly basis.*

SEC. 18. For the 2009–10 fiscal year, twenty million dollars (\$20,000,000) shall revert to the Department of Conservation from grants made pursuant to Section 14581 of the Public Resources Code in the 2008–09 fiscal year or before that have not been encumbered, expended, or liquidated. The department shall expend the twenty million dollars \$20,000,000 reverted to the department by this section during the 2009–10 fiscal year for the purposes of Section 14581 of the Public Resources Code.

SEC. 19. This act addresses the fiscal emergency declared by the Governor by proclamation on December 19, 2008, pursuant to subdivision (f) of Section 10 of Article IV of the California Constitution.

SEC. 20. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because

1 the only costs that may be incurred by a local agency or school
2 district will be incurred because this act creates a new crime or
3 infraction, eliminates a crime or infraction, or changes the penalty
4 for a crime or infraction, within the meaning of Section 17556 of
5 the Government Code, or changes the definition of a crime within
6 the meaning of Section 6 of Article XIII B of the California
7 Constitution.

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